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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
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11 ANTHONY RAYE HOSKINS,
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13 Plaintiff,

14 v.
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16 L. LUNDY, et al.,
17

18 Defendants.
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NO. CV 23-8963-JGB (AGR)

ORDER ACCEPTING FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

20 Pursuant to 28 U.S.C. § 636, the Court has reviewed the complaint, records
21 on file, the Report and Recommendation of the United States Magistrate Judge
22 ("Report"). No objections to the Report have been filed. The Court accepts the
23 findings and recommendation of the Report.

24 On March 24, 2025, Plaintiff filed a request for a 30-day extension of time to
25 file a First Amended Complaint ("FAC").

26 IT IS ORDERED that Defendants' motion to dismiss the complaint under
27 Fed. R. Civ. P. 12(b)(6) is GRANTED IN PART AND DENIED IN PART as
28 follows:

(1) All official capacity claims are dismissed without leave to amend;

1 (2) Defendants Villareal's and Ulloa's motion to dismiss Plaintiff's
2 excessive force claims under the Eighth Amendment under Fed. R. Civ. P.
3 12(b)(6) is denied and Plaintiff is permitted to file a First Amended Complaint
4 stating what relief Plaintiff seeks against Defendants Villareal and Ulloa;

5 (3) Defendants' motion to dismiss the Fourth and Fourteenth Amendment
6 claims is granted without leave to amend;

7 (4) Defendant Lundy's motion to dismiss all claims is granted with leave to
8 amend;


9 (5) Defendants' motion to dismiss the complaint under Fed. R. Civ. P.
10 12(b)(1) is denied; and

11 (6) Plaintiff is granted leave to file a First Amended Complaint, **within 30**
12 **days after entry of this Order**, against Defendants under the Eighth Amendment
13 solely in their individual capacity that cures the deficiencies by (a) stating what
14 relief Plaintiff seeks against all defendants and (b) stating the factual basis for a
15 supervisory claim against Defendant Lundy in her individual capacity under the
16 Eighth Amendment. Plaintiff's request for an extension of time to file the First
17 Amended Complaint is therefore DENIED AS MOOT.

18 Plaintiff is advised that the First Amended Complaint generally supersedes
19 the original complaint. If Plaintiff chooses to file a First Amended Complaint, it
20 must be filed within 30 days after entry of the District Court's Order, bear the
21 docket number assigned to this case, be labeled "First Amended Complaint," and
22 be complete in and of itself without reference to the original complaint,
23 attachment, pleading, or other documents

24 The case is referred back to the Magistrate Judge for further proceedings.

25 DATED: March 14, 2025

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28 JESUS G. BERNAL
United States District Judge